

## **Remarks**

Claims 1-48 were pending in this application. Claims 1, 14, and 20-48 have been amended, claim 17 has been canceled, and no claims have been added. Reconsideration of this application, as amended, is respectfully requested in light of the foregoing amendments and the following remarks.

### **Correction of Claim Numbering**

Claims 22-48 have been amended herein to correct the claim numbering in the application as filed. Specifically, claim number 21 was originally omitted, and claim numbers 46-47 were duplicated. Original claims 22-48 have now been correctly numbered herein as claims 21-49, and have also been amended to correct the claim numbers from which they depend. In addition to these amendments, claims 23 (*original claim 24*), 35 (*original claim 36*), 36 (*original claim 37*), and claim 47 (*original duplicate claim 46*) have been amended to correct minor typographical errors. No new matter has been entered.

### **Rejection of Claims Under 35 U.S.C. § 102(b)**

Claims 1-9, 14-16, 18-23 (*now claims 18-22*), and 34-36 (*now claims 33-35*) have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,395,542 issued to Fordon ("Fordon"). In response, Applicant has amended independent claims 1, 14, and 34 (*now claim 33*) to more particularly point out and distinctly claim the subject matter of the invention.

Specifically, claims 1 and 34 have been amended to recite that the container is "adapted to receive an inner receptacle of unitary construction" and that "the first and second pairs of opposed walls and the base define a compartment area for removably receiving the inner receptacle therein." Likewise, claim 14 has been amended to recite that the container is "adapted to receive an inner receptacle arranged to hold merchandise therein" and that the first and second pairs of opposed walls and the base define a compartment area for removably receiving and supporting the inner receptacle therein." These features of Applicant's invention are neither disclosed nor suggested by Fordon. Rather, Fordon discloses a container wherein

the side wall frames 9 and the end wall frames 13 include downwardly facing channels 32 adapted to receive the upper edges of separate side wall panels 29 and end wall panels 31, respectively. Panels 29, 31 along with bottom 30 are not of unitary construction and do not form an inner receptacle that is removably received by the container as in Applicant's claimed invention. Until panels 29, 30, 31 are secured to frames 9, 13 to form the walls of Fordon's container, they are not capable of holding anything. Furthermore, according to Fordon's invention, panels 29, 31 must necessarily be separable since panels 29, 31 remain affixed to their respective side and end wall frames 9, 13 when the frames 9, 13 are rotated outwardly for nesting of like containers (see Fordon, FIGS. 5 and 6).

Claim 14 has been further amended to recite that the container base and walls are integrally formed (see the embodiment shown in FIGS. 21-24). Fordon's container is not integrally formed, but rather comprises separate bottom 1, side 9, and end 13 frame members which receive separate panels 29, 30, 31 therein.

Therefore, in view of the claim amendments and the foregoing remarks, Applicant believes that claims 1, 14, and 34 overcome the Examiner's rejection thereof under 35 U.S.C. § 102(b) over Fordon. Accordingly, reconsideration and withdrawal of the rejection of claims 1, 14, and 34 and corresponding dependent claims 2-9, 15-16, and 35-36, is respectfully requested.

Claim 18 recites "a base member adapted to be received on the peripheral frame portion for supporting a lower portion of the inner receptacle, the base member including an exterior ring and a lightweight support material affixed thereacross." This element is neither disclosed nor suggested by Fordon. Therefore, claim 18 is believed to be patentable over Fordon, and Applicant respectfully requests reconsideration and withdrawal of the rejection of this claim and corresponding dependent claims 19-23.

**Rejection of Claims Under 35 U.S.C. § 103(a)**

Claims 10-13, 17, 24-33 (*now claims 23-32*), and 40-48 (*now claims 39-49*) have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Fordon in view of

U.S. Patent No. 6,015,056 issued to Overholt et al. ("Overholt"). In response, Applicant has amended independent claim 25 (*now claim 24*) in order to more particularly point out and distinctly claim the subject matter of the invention. Similar to claims 1 and 34, claim 25 has been amended to recite that the container is "adapted to receive an inner receptacle of unitary construction" and that "the first and second pairs of opposed walls and the base define a compartment area for removably receiving the inner receptacle therein." As stated above, this feature is neither disclosed nor suggested by Fordon, and likewise is not disclosed or suggested by Overholt. Thus, these references cannot be properly combined to achieve Applicant's claimed invention. Accordingly, Applicant respectfully requests that the rejection of claim 25 and its corresponding dependent claims under 35 U.S.C. § 103(a) be withdrawn.

Claims 10-13 depend from and contain all the limitations of independent claim 1. Claim 24 (*now claim 23*) depends from and contains all the limitations of independent claim 18. Claims 40-48 (*now claims 39-49*) depend from and contain all the limitations of independent claim 34 (*now claim 33*). Claim 17 has been canceled herein. For the reasons stated above, claims 1, 18, and 34 are all believed to be patentable over Fordon, either alone or in combination with Overholt. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 10-13, 24, and 40-48 under 35 U.S.C. § 103(a).

Claims 37-39 (*now claims 36-38*) have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Fordon. Claims 37-39 depend from and contain all the limitations of independent claim 34 (*now claim 33*) which, for the reasons stated above, is believed to be patentable over Fordon. Accordingly, Applicant respectfully requests that the rejection of claims 37-39 under 35 U.S.C. § 103(a) be withdrawn.

### **Conclusion**

In summary, Applicant believes that the claims, as amended, now meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

A check in the amount of **\$110.00** is enclosed to cover the Petition fee. Since incorrect numbering of the claims as filed in this application resulted in payment for only 48 of 49 total claims at the time of filing, please charge any additional fees as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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Attachment

## VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claims 1, 14, 20, and 22-48 have been amended as follows:

1. (Amended) A container adapted to receive an inner receptacle of unitary construction, the container comprising:

a base for supporting a lower portion of the inner receptacle, the base including a peripheral frame portion defining at least one relatively large opening therebetween;

a first pair of opposed walls extending upwardly from the peripheral frame portion; and

a second pair of opposed walls extending upwardly from the peripheral frame portion and attached to the first pair of opposed walls, wherein the first and second pairs of opposed walls and the base define a compartment area for removably receiving the inner receptacle therein.

14. (Amended) A container adapted to receive an inner receptacle arranged to hold merchandise therein, the container comprising:

a base including a peripheral frame portion[, the peripheral frame portion having at least one cross-member attached thereto];

a first pair of opposed walls integrally formed with and extending upwardly from the peripheral frame portion; and

a second pair of opposed walls integrally formed with and extending upwardly from the peripheral frame portion and integrally formed with [attached to] the first pair of opposed walls, wherein the first and second pairs of opposed walls and the base define a compartment area for removably receiving and supporting the inner receptacle therein.

20. (Amended) The container according to claim [19] 18, wherein the exterior ring is releasably attached to the peripheral frame portion.

[22] 21. (Amended) The container according to claim 18, wherein the first and second pairs of opposed walls include a plurality of relatively large apertures which represent a substantial portion of each of the first and second pairs of opposed walls.

[23] 22. (Amended) The container according to claim 18, wherein at least one of the first and second pairs of opposed walls includes attachment members for securing the inner receptacle within the compartment area.

[24] 23. (Amended) The container according to claim 18, wherein the first and second pairs of opposed walls are each pivotably attached to the peripheral frame portion and releasably attached to each other, such that the first and second pairs of opposed walls are orientable between [the] an assembled position and a collapsed position.

[25] 24. (Amended) A collapsible container adapted to receive an inner receptacle of unitary construction, the container comprising:

a base for supporting a lower portion of the inner receptacle, the base having a peripheral frame portion defining at least one relatively large opening therebetween;

a first pair of opposed walls pivotably attached to the peripheral frame portion and movable between an assembled position and a collapsed position; and

a second pair of opposed walls pivotably attached to the peripheral frame portion and movable between an assembled position and a collapsed position, each of the second pair of opposed walls releasably attached to an adjacent one of the first pair of opposed walls in the assembled position, wherein orienting the first and second pairs of opposed walls in the assembled position defines a compartment area for removably receiving the inner receptacle therein.

[26] 25. (Amended) The container according to claim [25] 24, wherein one of the first and second pairs of opposed walls includes a guide projection and the other includes a guide receiver for aligning the first and second pairs of opposed walls in the assembled position.

[27] 26. (Amended) The container according to claim [25] 24, wherein one of the first and second pairs of opposed walls includes a latch and the other includes a latch receiver for securing the first and second pairs of opposed walls in the assembled position.

[28] 27. (Amended) The collapsible container according to claim [27] 26, wherein the latch receiver is disposed within a flange depending inwardly from each of the first pair of opposed walls, the latch receiver having a latch aperture and a user actuable release portion, wherein the latch aperture is sized for slidingly receiving the corresponding latch when the container is oriented in the assembled position, such that to release the container from the assembled position, the user actuable release portion is actuated by a user to release the latch from the latch aperture.

[29] 28. (Amended) The collapsible container according to claim [25] 24, wherein the peripheral frame portion includes an inwardly extending flange for supporting the lower portion of the inner receptacle.

[30] 29. (Amended) The collapsible container according to claim [25] 24, further comprising a base member extending across the relatively large opening.

[31] 30. (Amended) The collapsible container according to claim [30] 29, wherein the base member includes at least one cross-member attached to the peripheral frame portion.

[32] 31. (Amended) The collapsible container according to claim [30] 29, wherein the base member includes an exterior ring and a lightweight support material affixed thereacross, the exterior ring adapted to be supported by an inwardly extending flange of the peripheral frame portion.

[33] 32. (Amended) The collapsible container according to claim [25] 24, wherein at least one of the first and second pairs of opposed walls includes attachment members for securing the inner receptacle to the opposed walls.

[34] 33. (Amended) A container assembly, comprising:

a base including a peripheral frame portion defining at least one relatively large opening therebetween;

a first pair of opposed walls extending upwardly from the peripheral frame portion;

a second pair of opposed walls extending upwardly from the peripheral frame portion and attached to the first pair of opposed walls, wherein the first and second pairs of opposed walls and the base define a compartment area; and

an inner receptacle of unitary construction which is arranged to hold merchandise therein, wherein the inner receptacle is removably received within the compartment area[, wherein a lower portion of the inner receptacle is supported by the peripheral frame portion].

[35] 34. (Amended) The container assembly according to claim [34] 33, wherein the inner receptacle is disposable.

[36] 35. (Amended) The container assembly [of] according to claim [34] 33, wherein the inner receptacle includes a box.

[37] 36. (Amended) The container assembly [of] according to claim [34] 33, wherein the inner receptacle includes a bag.

[38] 37. (Amended) The container assembly according to claim [34] 33, wherein the inner receptacle includes a plurality of ventilation apertures.

[39] 38. (Amended) The container assembly according to claim [34] 33, wherein the inner receptacle is flexible.

[40] 39. (Amended) The container assembly according to claim [34] 33, wherein the peripheral frame portion includes an inwardly extending flange for supporting the lower portion of the inner receptacle.



[41] 40. (Amended) The container assembly according to claim [34] 33, further comprising a base member extending across the relatively large opening.

[42] 41. (Amended) The container assembly according to claim [41] 40, wherein the base member includes at least one cross-member attached to the peripheral frame portion.

[43] 42. (Amended) The container assembly according to claim [41] 40, wherein the base member includes an exterior ring and a lightweight support material affixed thereacross, the exterior ring adapted to be supported by an inwardly extending flange of the peripheral frame portion.

[44] 43. (Amended) The container assembly according to claim [34] 33, wherein the first and second pairs of opposed walls include a plurality of relatively large apertures which represent a substantial portion of each of the first and second pairs of opposed walls.

[45] 44. (Amended) The container assembly according to claim [34] 33, wherein at least one of the first and second pairs of opposed walls includes attachment members for securing the inner receptacle to the opposed walls.

[46] 45. (Amended) The container assembly according to claim [45] 44, wherein the attachment members suspend the inner receptacle within the compartment area.

[47] 46. (Amended) The container assembly according to claim [34] 33, wherein at least one of the first and second pairs of opposed walls includes an integral handle.

[46] 47. (Amended) The container assembly according to claim [34] 33, wherein the first and second pairs of opposed walls are each pivotably attached to the peripheral frame portion and releasably attached to each other, such that the first and second

pairs of opposed walls are orientable between [the] an assembled position and a collapsed position.

[47] 48. (Amended) The container according to claim [34] 47, wherein one of the first and second pairs of opposed walls includes a guide projection and the other includes a guide receiver for aligning the first and second pairs of opposed walls in the assembled position.

[48] 49. (Amended) The container according to claim [46] 47, wherein one of the first and second pairs of opposed walls includes a latch and the other includes a latch receiver for securing the first and second pairs of opposed walls in the assembled position.